

111TH CONGRESS
1ST SESSION

S. 1169

To amend title 10, United States Code, to provide for the treatment of autism under TRICARE.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 2009

Mrs. GILLIBRAND (for herself, Ms. COLLINS, Mr. CARDIN, Mr. SANDERS, Mr. BROWNBACK, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide for the treatment of autism under TRICARE.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TREATMENT OF AUTISM UNDER TRICARE.**

4 (a) IN GENERAL.—Section 1077 of title 10, United
5 States Code, is amended—

6 (1) in subsection (a), by adding at the end the
7 following new paragraph:

8 “(18) In accordance with subsection (g), treat-
9 ment of autism spectrum disorders.”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(g)(1) For purposes of subsection (a)(18), treatment
4 of autism spectrum disorders shall be provided if a health
5 care professional determines that the treatment is medi-
6 cally necessary. Such treatment shall include the following:

7 “(A) Habilitative or rehabilitative care.

8 “(B) Pharmaceutical agents.

9 “(C) Psychiatric care.

10 “(D) Psychological care.

11 “(E) Speech therapy.

12 “(F) Occupational therapy.

13 “(G) Physical therapy.

14 “(H) Group therapy, if a health care profes-
15 sional determines it necessary to develop, maintain,
16 or restore the skills of the beneficiary.

17 “(I) Any other care or treatment that a health
18 care professional determines medically necessary.

19 “(2) Beneficiaries under the age of five who have de-
20 velopmental delays and are considered at-risk for autism
21 may not be denied access to treatment described by para-
22 graph (1) if a health care professional determines that the
23 treatment is medically necessary.

24 “(3) The Secretary may not consider the use of ap-
25 plied behavior analysis or other structured behavior pro-

1 grams under this section to be special education for pur-
2 poses of section 1079(a)(9) of this title.

3 “(4) In carrying out this subsection, the Secretary
4 shall ensure that—

5 “(A) a person who is authorized to provide ap-
6 plied behavior analysis or other structured behavior
7 programs is licensed or certified by a State, the Be-
8 havior Analyst Certification Board, or other accred-
9 ited national certification board; and

10 “(B) if applied behavior analysis or other struc-
11 tured behavior program is provided by an employee
12 or contractor of a person authorized to provide such
13 treatment, the employee or contractor shall meet
14 minimum qualifications, training, and supervision
15 requirements consistent with business best practices
16 in the field of behavior analysis and autism services.

17 “(5) In this section:

18 “(A) The term ‘autism spectrum disorders’ in-
19 cludes autistic disorder, Asperger’s syndrome, and
20 any of the pervasive developmental disorders as de-
21 fined by the most recent edition of the Diagnostic
22 and Statistical Manual of Mental Disorders.

23 “(B) The term ‘habilitative and rehabilitative
24 care’ includes—

25 “(i) professional counseling;

1 “(ii) guidance service;

2 “(iii) treatment programs, including not
3 more than 40 hours per week of applied behav-
4 ior analysis; and

5 “(iv) other structured behavior programs
6 that a health care professional determines nec-
7 essary to develop, improve, maintain, or restore
8 the functions of the beneficiary.

9 “(C) The term ‘health care professional’ has the
10 meaning given that term in section 1094(e)(2) of
11 this title.”.

12 (b) REGULATIONS.—Not later than 180 days after
13 the enactment of this Act, the Secretary of Defense shall
14 prescribe such regulations as may be necessary to carry
15 out section 1077(a)(18) of title 10, United States Code,
16 as added by subsection (a).

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